

Appeal Decision

Site visit made on 9 May, 2017

by G. Rollings, BA(Hons) MA(UD) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th June, 2017

Appeal Ref: APP/B5480/W/17/3167908

177 and 179 Mawney Road, Romford, RM7 8BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Harps Johal (HAJ Estates) against the decision of the Council of the London Borough of Havering.
 - The application Ref: P0920.16 dated 1 June, 2016 was refused by notice dated 23 September, 2016.
 - The development proposed is the construction of a 1x3 bed dwelling/house within the rear gardens of 177 and 179 Mawney Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on local education infrastructure.

Reasons

Character and appearance

3. The appeal site comprises two long properties, each occupied by a detached house close to Mawney Road. Each of the properties has a separate rear garden area, beyond which is an amalgamated open area partially occupied by a single-storey outbuilding, for which demolition is proposed. The appeal proposal incorporates the creation of a new vehicular access from Mawney Road along the southern edge of the property, adjacent to No. 177, leading to a two-storey dwelling to be set centrally within the open area, and surrounded by garden space and vehicular hardstanding.
 4. The area around the site contains a mix of dwelling styles and ages. Apart from some commercial and retail uses close to Eastern Avenue, a short distance south of the site, it is predominantly comprised of residential development. Dwellings and flatted blocks are laid out in a traditional suburban style, arranged around the perimeter edges of blocks and served with direct, facing street frontages. Although there is some more modern, infill-type development within the area, including the houses on Amberley Way adjoining the appeal site's rear boundary, these follow the established perimeter layout.
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During my visit to the area, I did not see any examples of dwellings that could be categorised 'backland' development.

5. The Council's approach to urban design is primarily set out in Policy DC61 of its adopted *Core Strategy and Development Control Policies Development Plan Document* (2008) (DPD). This requires development to respond to distinctive local patterns of development, amongst other factors. Although the policy does not specifically refer to backland development of the type proposed, in this instance the general absence of existing backland development, and the strong perimeter development patterns in the area, mean that the proposed dwelling would not respond to established local patterns of development. It would therefore be out of character with its surroundings.
6. Despite the proposed development having one less dwelling and a smaller built envelope than a previous proposal for the site, which was recently dismissed on appeal¹, it would be higher than the existing outbuildings on the site and surrounding properties. Its height and incongruous massing would be clearly visible in the street scene on Amberley Way and in private views from numerous surrounding dwellings. As such, it would obtrusive within the otherwise open setting of the land behind existing homes.
7. The appellant pointed out examples of other development at the rear of street-facing buildings, which I visited during my site inspection. These are smaller garages and domestic outbuildings typically found within larger rear gardens, rather than dwellings, and I do not therefore consider them to be comparable with the proposed development. I also acknowledge the appellant's comments regarding the previously developed status of the land. However, the glossary of the *National Planning Policy Framework* specifically excludes gardens from the definition of previously developed (brownfield) land. Given that the proposal does not accord with the DPD, it is not a form of sustainable development for which the Framework holds a presumption in favour.
8. I therefore conclude that the proposed development would have a harmful effect on the character and development on the surrounding area, and would conflict with DPD Policy DP61, for the reasons set out above.

Local education infrastructure

9. The Council has requested that the appellant enter into a planning obligation to provide a financial contribution towards local education infrastructure, which it considers would mitigate demand for additional school places arising from the development. No undertaking has been submitted with the appeal.
10. The Council has submitted evidence incorporating technical reports, which demonstrate a shortage of school places in many areas throughout the borough. To this end, the Council's *Commissioning Plan for Education Provision 2015/16-2019/20* includes a list of 'in-demand' areas to which funding could be allocated. This presents a robust case and I see no reason to disagree with its findings.
11. Nonetheless, the Council has not identified a specific project to which the contribution would be allocated. Despite evidence suggesting that it has a robust monitoring system to ensure that no more than five separate contributions are used on any identified single project, the fact that no project

¹ Appeal Ref: APP/B5480/W/16/3157078; decision date 6 December 2016.

has been identified means I cannot be certain that the contribution would not represent a 'pooled' form of contribution, pursuant to Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010. I appreciate the Council's concerns that it is not within its gift to determine when the contribution would be received, and therefore whether a specific identified target had already reached the limit of five funding sources. Previous appeal decisions have been provided by the main parties, which both support and refute this approach. On balance, given that a particular project has not been identified, I cannot be certain that the development would be specifically used to mitigate the demand generated by the proposed development.

12. In relation to the development plan, DPD Policy DC29 refers to out-of-date guidance predating the updated CIL Regulations, and Policy DC72 states that contributions should be sought in circumstances where the relevant statutory tests can be satisfied, which is not the case in this instance. Consequently, notwithstanding the aims of development plan policy, I am unable to conclude that a planning obligation seeking to provide this contribution would comply with regulation 122 of the CIL Regulations. Although the guidance and financial amounts set out by the Council might remain applicable, there is no statutory framework under which an appropriate contribution can be sought in this instance.

Conclusion

13. Despite finding that there is no case for a planning obligation, I have found that the proposal would deviate from the established pattern of development within the area, and would appear obtrusive. As such, it would be harmful to the character and appearance of the area. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR